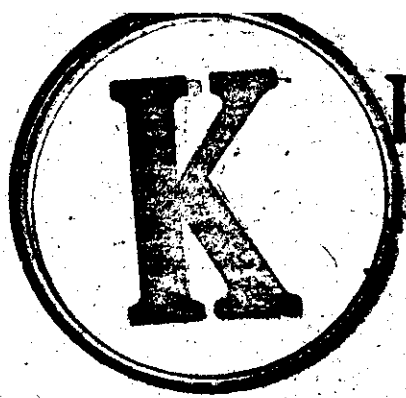


1951.



File No. Requisitioning II/51 (N)

Legal Deptt.

B BRANCH

Subject:— Notifications under the Bombay Land

Requisition Act, 1948

$\frac{P-7}{E}$

File No. Requisitioning II/51 (N)

Dec. 1951

635-B

Office of the R.L.A.

In place of draft notification at page 11, a revised draft notification is sent herewith subject to the following observations:-

2. As stated in R.L.A's opinion No. 15694 dated the 8th November 1950, the Bombay Land Requisition Act extends inter alia to the City of Bombay and the Bombay Suburban District (compare section 2(1)). As the Act does not refer to the areas of Greater Bombay it would not be correct to issue the proposed notification in terms of the areas of Greater Bombay. R.D. Notification No. Misc./48677-(c)-P dated the 4th July 1950 at page 3 ante may therefore now be superseded so that all the sections under which officers referred to are to exercise the power will be brought under one notification.

3. The draft notification at page 9- The notification purports to be issued by the Assistant Controller of Accommodation. The Assistant Controller of Accommodation cannot legally issue such notification as the power of the State Government under sections referred to in the notification does not appear to have been delegated to him under section 15 of the Act. It may be pointed out that the powers of the State Government under sections 9(7), 11(1), 12(1) and 14 are quite different from the powers of the officers which are to be exercised under the said sections and it is the latter power which is being given by the State Government to-

- (1) the Controller of Accommodation,
- (2) the Assistant Controller of Accommodation,
- (3) the Accommodation Officers,
- (4) the Inspectors of Requisitioning.

The Assistant Controller of Accommodation, therefore,

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4 Cs.

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would not be competent to issue the proposed notification at page 9 ante. Perhaps it would not be necessary to authorise any individual officer to exercise the powers under the section referred to as the Inspectors of Requisitioning are being authorised to exercise the powers under the said sections by the proposed notification which is sent herewith.

o.c. Sd/- J.R.Dhurandhar
22/6

Remembrancer of Legal Affairs.

U.R. to R.D. No. 10070, dated the 25th June 1951.

Mjr/27/6

4 Cs.

OFFICE OF THE R.L.A.

Before section 9A of the Bombay Land Requisition Act, 1938 (Under which the proposed notification is to be issued) was inserted by Bombay Act II of 1950, the Advocate General, Bombay, was consulted in the matter. In his opinion No. 1 of 1950 dated 7th January 1950, the Advocate General had considered the competency of the Provincial Government to make such a law with reference to the provisions of the then Government of India Act, 1935, and had advised that the provisions contained in section 9A could be made. He also suggested certain amendments to the clause in question. This provision of the Act inter alia was however challenged in the recent case namely The State of Bombay V. Neman Santlal Alreja. The High Court, However, did not consider the points on the following grounds,†

"Now in this appeal we are strictly not concerned with the other provisions of Act II of 1950. In our opinion, those provisions are clearly severable from section 2 with which we are concerned. There can hardly be any doubt as to the severability of the other provisions of Act II of 1950 because Act XXXIII of 1948 could be administered without those provisions till Act II of 1950 was passed. The petitioner in this case is in no way affected by of the substantive provisions of Act XXXIII of 1948 which have been extended by Act II of 1950. Therefore we do not propose to decide whether the Legislature effectively amended certain provisions of Act XXXIII of 1950 by enacting amendments in Act II of 1950.

The question of validity of section 9A having been kept open, an order made under that section might be attacked by the party affected by the order.

A draft Order is however sent herewith

Sd/- J.R. Dhurandhar

O..

8/8

Remembrancer of Legal Affairs.

U.R. to R.D. No. 12812, dated the 9th August 1951.

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GOVERNMENT OF BOMBAY.

Office of the Controller of Accommodation.

Order No.

Bombay

1951

ORDER

In exercise of the powers conferred by sub-section (1) of section 9A of the Bombay Land Requisition Act, 1948 (Bom XXXIII of 1948) the Government of Bombay is pleased to direct that the Consul for Italy, to whom the premises belonging to *..... requisitioned under Government Order No. R. 1153 dated the 17th June 1949 and specified therein, have been allotted under Government Order No. dated and who has been put in the use and occupation thereof, shall continue in possession thereof as a tenant of the said landlord and the said premises shall be deemed to have been let by the said landlord to the said Consul for Italy on payment of a monthly rent of Rs. exclusive of municipal taxes payable in respect thereof

* Insert name
of the
landlord.

By order of the Governor of Bombay,

Controller of Accommodation.

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4 Cs.

OFFICE OF THE R.L.A.

It appears from these papers that one Ramchand Jethamalani, an Advocate of Bombay, asked the Controller of Accommodation on behalf of his client Ramdas T.M. on 20th April 1951 for permission to let out some 19 flats in a building newly constructed on plot No. 22 in Zaverbaug Estate, Mahim. In the list of the tenants to whom accommodation was to be given in the 19 flats, flat No. 15 was shown as proposed to be given to Jai Hindh Construction Corporation- for its employees and staff (page 3 ante). In his subsequent letter of 14th June 1951 (page 59 ante). Ramchand Jethamalani, the Advocate, informed the Controller that Shri Ramdas T.M., the owner of the new building in Zaverbaug Estate, Mahim wished to occupy flat No. 15 himself and requested the Controller to permit the said Ramdas to occupy flat No. 15. In the affidavit made by Shri Ramdas (page 61 ante) he has declared that he himself wanted to reside in flat No. 15. After verifying from Ramchand Jethamalani that the original proposal of flat No. 15 in favour of Jai Hind Construction Corporation had been dropped the Controller by his letter of 21st July 1951 (page 73 ante) granted permission to Shri Ramdas T.M. to let out the premises to the allottees as proposed by him.

2. It now transpires that some fraud has been committed in obtaining the permission of Government in favour of Shri Ramdas. Flat No. 15 referred to above is at present the subject-matter of a criminal proceeding which has been launched against the partners of Jai Hind Construction Corporation for accepting pague from one Shankerdas Gupta for letting the said flat No. 15 to him. It has been disclosed in inquiry that flat No. 15 which is the subject-matter of the criminal proceeding is the same in respect of which permission was granted by the Controller to Shri Ramdas. From the papers and enquiries it appears that some of the landlord's men are staying in the flat No. 15. They say that the flat is used as an estate office.

3. The Controller has, therefore, cancelled the permission

led to Shri Ramdas by his agent --

(page 96 ante). The Controller now assumes that the flat has become ~~xxxx~~ vacant with effect from 14th August 1951 and as such he proposes to requisition the said flat under section 6(4)(a) of the Bombay Land Requisition Act, 1948.

4. Presumably permission to let or to occupy the flats in the newly constructed building on plot No. 22 in the Zaverbaug Estate, Mahim, was obtained under sub-section (3) of section 6 of the Bombay Land Requisition Act, 1948. Under that sub-section a landlord shall not, without the permission of the State Government, let, occupy or permit to be occupied such premises before giving the intimation and for a period of one month from the date on which the intimation is received. In this case it is not clear who is the real landlord of the premises in question. If Shri Ramdas T.M. is the landlord he had asked permission for occupying flat No. 15 himself. Since he himself has not occupied the flat and some other persons are occupying the flat, the Controller was quite justified in cancelling the permission given by him to occupy the said flat and therefore it can be assumed that flat No. 15 was vacant with effect from 14th August 1951., the ~~the~~ date on which permission to occupy the flat was cancelled. If however, he is not the landlord, the premises have been illegally occupied by the persons in possession thereof and therefore they can be deemed to be vacant from the date of the notification referred to in sub-section (1) of section 6 of the Act. In any case, they can be deemed to be vacant with effect from 14th August 1951, the date on which the permission to occupy flat No. 15 was cancelled.

5. There is therefore, no objection to specifying 14th August 1951 as the date on which flat No. 15 had become vacant. A revised draft order for the requisition of flat No. 15 is accordingly sent herewith. It is presumed that Shankardas Gupta to whom it is proposed to allot the flat after requisition is a person who is at present without any accommodation.

Sd/- J.R. Dhurandhar
12/9
o.c. Remembrancer of Legal Affairs.

U.R. to R.D. (Accommodation) No. 14595, dated the 14th September 1951.

Mjr/27/6

Order No.

Bombay,

September 1951.

O R D E R

WHEREAS on inquiry it is found that the premises specified below had become vacant on or after the 14th August 1951;

Now, therefore, in exercise of the powers conferred by clause (a) of Sub-section (4) of section 6 of the Bombay Land Requisition Act, 1948, (Bom XXIII of 1948) the Government of Bombay is pleased to requisition the said premises for a public purpose, namely, providing house accommodation for persons who are without such accommodation

PREMISES.

Block No. 15 of the Building, situated at 22 Zaverbaug Estate, Mahim, Bombay.

By order of the Governor of Bombay,

(Designation of the Officer
signing the Order.)

Mjr/27/6

Cs.